



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



328735

REPLY TO THE ATTENTION OF:

JUN 22 2009

SE-5J

VIA ELECTRONIC AND U.S. MAIL  
michael.ohm@bryancave.com

Donald C. Vitek  
Fairbanks Development Associates LLC  
Attention: Corporate Secretary  
33 West Monroe  
Suite 1900  
Chicago, Illinois 60604

RE: Completion of Work under ASAOC Docket No. V-W-08-C-916 for Lindsay Light II Site OU06, 245 East Ohio, Chicago, Illinois

Dear Mr. Vitek:

On October 17, 2008, the United States Environmental Protection Agency (U.S. EPA) entered into an Administrative Settlement Agreement and Order by Consent (ASAOC) Docket Number V-W-08-C-916 with Fairbanks Development Associates LLC ("FDA"), in which FDA agreed to perform specified removal activities, including radiological soil screening and removal of thorium-contaminated soil and other activities, (the "Work") at 245 East Ohio, Chicago, Illinois (Site), and to reimburse U.S. EPA for response costs associated with this Site. U.S. EPA and FDA entered into the ASAOC because an Action Memorandum documented U.S. EPA's determination that radioactive materials present at the Site posed an imminent and substantial threat to public health and the environment and explained the need for a time-critical removal action based on the impending development of the Site.

The terms of the ASAOC provided that FDA remove, transport and disposal of off-site all soils exceeding U.S. EPA's cleanup standard of 7.1 picoCuries per gram total radium (Ra 226 and Ra 228). The ASAOC also provided that if FDA did not radiologically investigate the entire Site or remediate thorium contamination from the entire Site, then FDA would establish U.S. EPA-approved institutional controls to control exposure to and release of thorium contamination. Pursuant to the ASAOC, FDA submitted a work plan that U.S. EPA approved on August 28, 2008 and then FDA initiated site work on October 20, 2008.

On April 28, 2009, FDA submitted a revised Final Report meeting the requirements of Paragraph 21 of the ASAOC and documenting completion of the Work as required by the ASAOC. The revised Final Report included documentation that Tronox LLC shipped approximately 780 tons or approximately 702 cubic yards of thorium-contaminated soil from the Site to Energy Solutions Clive Facility (fka Envirocare) in Clive, Utah, a disposal facility licensed to accept radioactive waste, in accordance with Paragraph 22 of the ASAOC. FDA also removed three underground storage tanks and 590 tons or approximately 531 cubic yards of petroleum-contaminated soil which was shipped to Veolia Environmental Services, Onyx Zion Landfill in Zion, Illinois. Based upon FDA's Final Report and U.S. EPA's inspections of the Site and past oversight of the Work, U.S. EPA concludes that FDA identified, excavated, and shipped off-site all soils exceeding U.S. EPA's cleanup standard of 7.1 pico Curies per gram and completed the Work required by the ASAOC Section VIII. Consequently, there is no need for and FDA is not required to establish radiological institutional controls at its property.

As stated above, this letter reflects U.S. EPA's determination in accordance with Paragraph 73 of the ASAOC that FDA has completed the Work required by the ASAOC, including the removal of all radioactive materials exceeding U.S. EPA's cleanup standard and underground storage tanks. U.S. EPA, therefore, anticipates no need to take additional investigatory or cleanup action at this property unless new information warranting further Superfund consideration or conditions not previously known to EPA regarding the property are discovered. This notice of completion in no way releases FDA from any potential future obligations to perform additional work to address the same or other conditions at the Site should such work be the subject of a future U.S. EPA Administrative Order. Similarly, this notice of completion does not release FDA from any recordkeeping, payment, or other obligations under the ASAOC that extend beyond the date of this notice.

Please contact me at (312) 886-3601 and direct any legal inquiries to Mary Fulghum, Associate Regional Counsel at (312) 886-4683 or Cathleen Martwick, Associate Regional Counsel at (312) 886-7166, if you have any questions concerning this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Verneta Simon", followed by the text "For VS." in a smaller, less legible script.

Verneta Simon  
On-Scene Coordinator

cc: Bruce Clegg, Conestoga-Rovers & Associates  
Pritesh Pathak, Conestoga-Rovers & Associates  
Michael K. Ohm, Bryan Cave LLP

**bcc: Mary Fulghum, C-14J  
Charles Gebien, SE-5J  
Eugene Jablonowski, SMF-5J  
Mike Joyce, SI-7J  
Cathleen Martwick, C-14J  
Debbie Keating, SE-5J**